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PATENT APPLICATION
SERIAL NO. 09/658,238

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE ON APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	John C. Zurawski
Serial No.:	09/658,238
Filed:	September 8, 2000
Group No.:	2143
Examiner:	David E. England
Confirmation No.	3002
Title:	METHOD AND APPARATUS FOR TRIGGERING AUTOMATED PROCESSING OF DATA

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

APPEAL BRIEF

Appellant has appealed to this Board from the decision of the Examiner, contained in a Final Office Action mailed March 24, 2006 ("*Final Office Action*") and the Advisory Action mailed July 17, 2006 ("*Advisory Action*"), finally rejecting Claims 1-17. Appellant filed a Notice of Appeal on August 17, 2006.

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3. The references fail to teach or suggest automatically initiating execution of said project definition in response to receipt through a communications link of a trigger expressed in a public communication protocol, as required by Claims 11-17 24

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REAL PARTY IN INTEREST

The real party in interest for this Application under appeal is Corel Corporation.

RELATED APPEALS AND INTERFERENCES

An appeal filed on August 14, 2006 for U.S. Patent Application Serial No. 09/658,298 may directly affect or be directly affected by or have a bearing on the Board's decision regarding this appeal.

STATUS OF CLAIMS

Claims 1-17 were rejected by the *Final Office Action*. Appellant presents all pending claims for appeal – Claims 1-17 – and sets forth these claims in Appendix A.

STATUS OF AMENDMENTS

The claims on appeal and which appear in Appendix A of this Appeal Brief represent the form of the claims as of the time of the *Final Office Action* dated March 24, 2006. Appellant filed no amendments to the claims after the *Final Office Action*.

SUMMARY OF CLAIMED SUBJECT MATTER

The traditional approach for carrying out image processing involves manually adjusting images on an image-by-image basis using image processing software that requires extensive operator interaction. *Specification*, at p. 3, ll. 4-8. A less common approach includes hard-coding software routines in line-by-line source code. *Id.*, at ll. 12-14. One difficultly that arises using these techniques involves accurately predicting how images will appear after being subjected to a variety of processing operations. *Id.*, at p. 3, ln. 26-p. 4, ln. 2.

The present invention provides a method and apparatus for facilitating efficient and accurate preparation of a project definition which will control automated processing of data. *Id.*, at p. 5, ll. 2-7. A project definition defines how data obtained from files storing images will be processed. *Id.*, at p. 9, ll. 5-7. A project definition may recognize source modules, branch modules, action modules, and destination modules. *Id.*, at p. 15, ll. 3-12. These modules may define where to find data for processing, which data should be processed, what processing should be performed on the data, and where to put processed data. *Id.*, at ll. 15-21. For example, processing an image may include beveling, blurring, and/or tinting an image. *Id.*, at p. 28, ll. 1-16; p. 28, ll. 17-29; p. 36, ll. 27-34. Processing may also include adding an image and/or text to another image. *Id.*, at p. 36, ll. 16-26; p. 41, ll. 1-15. Project definitions may be visually represented. *Id.*, at p. 45, ll. 27-30; p. 92, ll. 13-21; Fig. 6-8. Modules included in a project definition may be visually represented, for example, using a rectangular box, icon, or other appropriate representation. *Id.*, at p. 44, ll. 15-26.

Various computer application programs may be used to create a project definition. *Id.*, at p. 87, ll. 5-19. For example, to prepare a project definition, a user may select desired modules for inclusion in the project definition by pointing and clicking in a viewable area of a screen using a mouse. *Id.*, at p. 91, ll. 13-19. Input ports and output ports of modules included in a project definition may be bound together to create binding definitions, for example, by using a mouse to create binding lines. *Id.*, at p. 92, ln. 22-p. 93, ln. 24.

To preview the effect of a module, a user may cause a sample image to be displayed showing the effects of parameter settings associated with the module. *Id.*, at p. 100, ll. 13-25. During creation or modification of the project definition, this preview function permits variable parameters associated with the module to be rapidly and accurately adjusted to an

appropriate setting, so that a satisfactory result will be achieved when that module is used during subsequent execution of the project definition. *Id.*, at p. 101, ll. 4-12.

The present claims provide for displaying of a project window that includes a graphical representation of the project definition. As an example of this operation, Figure 14 illustrates a graphical user interface displaying a project definition. The graphical interface can further permit user interaction with the project definition, for example, using a pointing device. The independent claims each include elements addressing this type of operation.

In addition, the project definition may be linked or otherwise associated with image data, such that changes of the image data can result in automatic execution of the project definition. The independent claims each include elements addressing this type of operation. This execution may occur, for example, in response to a data source generating a trigger and communicating the trigger through a communication link.

A. Claim 1 - Independent

A method, comprising the steps of:

providing a set of predetermined function definitions which are different, at least one of said predetermined function definitions defining a function for manipulating image data;

storing a project definition that is operable when executed to process said image data and includes: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which said image data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which said image data can be supplied to the data destination; and binding information which includes binding portions that each associate a respective said input port with one of said output ports;

displaying a project window that includes a graphical representation of said project definition;

allowing a user to modify said project definition by interacting with said graphical representation using a pointing tool; and

automatically initiating execution of said project definition in response to a change to said image data in said data source;

wherein said execution of said project definition operates at least in part to manipulate a graphical aspect of said image data.

See, e.g., Figure 1 (10, 14, 21-22, 26-27, 31-34, 37-38), Figure 6 (71-74, 77-79), Figure 7 (71, 82-84), Figure 8 (101, 121-122, 126-129, 131-132, 136-138, 141-143, 146-148, 151-152, 156-157, 161-162, 166, 168-169, 171-172, 176-177, 181, 186-187, 191-192, 196), Figures 9A-B (211, 216-217, 221-223, 277-278, 281-284, 286-287, 291-292), Figure 11 (371-372), Figure 12 (388, 391), Figure 13 (491-492), Figure 14 (101, 136-137, 151-152, 156-157, 161, 501, 517-518, 521-523, 526-529, 536-537, 571), Figure 15 (101-104), Figure 16 (581-582, 586-587, 591-592), Figure 17 (601), and Figure 18 (651); and Specification 9:21-12:13, 14:21-17:30, 17:33-18:17, 44:27-45:30, 46:19-47:12, 55:15-56:11, 56:26-63:10, 63:11-66:4, 67:14-70:15, 74:17-21, 75:22-77:7, 80:21-31, 82:33-86:2, 87:5-101:2. (*See also* Tables 1-5).

B. Claim 7 - Independent

A computer readable medium encoded with a computer program which recognizes a set of predetermined function definitions that are different, at least one of said predetermined function definitions defining a function for manipulating image data, said program being operable when executed to facilitate:

storing of a project definition that is operable when executed to process said image data and includes: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which said image data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which said image data can be supplied to the data destination; and binding information which includes binding portions that each associate a respective said input port with one of said output ports;

displaying of a project window that includes a graphical representation of said project definition;

allowance of a user to modify said project definition by interacting with said graphical representation using a pointing tool; and

automatic initiation of execution of said project definition in response to a change to said image data in said data source;

wherein said execution of said project definition operates at least in part to manipulate a graphical aspect of said image data.

See, e.g., Figure 1 (10, 14, 21-22, 26-27, 31-34, 37-38), Figure 6 (71-74, 77-79), Figure 7 (71, 82-84), Figure 8 (101, 121-122, 126-129, 131-132, 136-138, 141-143, 146-148, 151-152, 156-157, 161-162, 166, 168-169, 171-172, 176-177, 181, 186-187, 191-192, 196), Figures 9A-B (211, 216-217, 221-223, 277-278, 281-284, 286-287, 291-292), Figure 11 (371-372), Figure 12 (388, 391), Figure 13 (491-492), Figure 14 (101, 136-137, 151-152, 156-157, 161, 501, 517-518, 521-523, 526-529, 536-537, 571), Figure 15 (101-104), Figure 16 (581-582, 586-587, 591-592), Figure 17 (601), and Figure 18 (651); and Specification 9:21-12:13, 14:21-17:30, 17:33-18:17, 44:27-45:30, 46:19-47:12, 55:15-56:11, 56:26-63:10, 63:11-66:4, 67:14-70:15, 74:17-21, 75:22-77:7, 80:21-31, 82:33-86:2, 87:5-101:2. (*See also* Tables 1-5).

C. Claim 11 - Independent

A method, comprising the steps of:

providing a set of predetermined function definitions which are different, at least one of said predetermined function definitions defining a function for manipulating image data;

storing a project definition that is operable when executed to process said image data and includes: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which said image data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which said image data can be supplied to the data destination; and binding information which includes binding portions that each associate a respective said input port with one of said output ports;

displaying a project window that includes a graphical representation of said project definition;

allowing a user to modify said project definition by interacting with said graphical representation using a pointing tool; and

automatically initiating execution of said project definition in response to receipt through a communications link of a trigger expressed in a public communication protocol;

wherein said execution of said project definition operates at least in part to manipulate a graphical aspect of said image data.

See, e.g., Figure 1 (10, 14, 21-22, 26-27, 31-34, 37-38), Figure 6 (71-74, 77-79), Figure 7 (71, 82-84), Figure 8 (101, 121-122, 126-129, 131-132, 136-138, 141-143, 146-148, 151-152, 156-157, 161-162, 166, 168-169, 171-172, 176-177, 181, 186-187, 191-192, 196), Figures 9A-B (211, 216-217, 221-223, 277-278, 281-284, 286-287, 291-292), Figure 11 (371-372), Figure 12 (388, 391), Figure 13 (491-492), Figure 14 (101, 136-137, 151-152, 156-157, 161, 501, 517-518, 521-523, 526-529, 536-537, 571), Figure 15 (101-104), Figure 16 (581-582, 586-587, 591-592), Figure 17 (601), and Figure 18 (651); and Specification 9:21-12:13, 14:21-17:30, 17:33-18:17, 44:27-45:30, 46:19-47:12, 55:15-56:11, 56:26-63:10, 63:11-66:4, 67:14-70:15, 74:17-21, 75:22-77:7, 80:21-31, 82:33-86:2, 87:5-101:2. (*See also* Tables 1-5).

D. Claim 16 - Independent

A computer-readable medium encoded with a computer program which recognizes a set of predetermined function definitions that are different, at least one of said predetermined function definitions defining a function for manipulating image data, said program being operable when executed to facilitate:

storing of a project definition that is operable when executed to process said image data and includes: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which said image data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which said image data can be supplied to the data destination; and binding

information which includes binding portions that each associate a respective said input port with one of said output ports;

displaying of a project window that includes a graphical representation of said project definition;

allowance of a user to modify said project definition by interacting with said graphical representation using a pointing tool; and

automatic initiation of execution of said project definition in response to receipt through a communications link of a trigger expressed in a public communication protocol;

wherein said execution of said project definition operates at least in part to manipulate a graphical aspect of said image data.

See, e.g., Figure 1 (10, 14, 21-22, 26-27, 31-34, 37-38), Figure 6 (71-74, 77-79), Figure 7 (71, 82-84), Figure 8 (101, 121-122, 126-129, 131-132, 136-138, 141-143, 146-148, 151-152, 156-157, 161-162, 166, 168-169, 171-172, 176-177, 181, 186-187, 191-192, 196), Figures 9A-B (211, 216-217, 221-223, 277-278, 281-284, 286-287, 291-292), Figure 11 (371-372), Figure 12 (388, 391), Figure 13 (491-492), Figure 14 (101, 136-137, 151-152, 156-157, 161, 501, 517-518, 521-523, 526-529, 536-537, 571), Figure 15 (101-104), Figure 16 (581-582, 586-587, 591-592), Figure 17 (601), and Figure 18 (651); and Specification 9:21-12:13, 14:21-17:30, 17:33-18:17, 44:27-45:30, 46:19-47:12, 55:15-56:11, 56:26-63:10, 63:11-66:4, 67:14-70:15, 74:17-21, 75:22-77:7, 80:21-31, 82:33-86:2, 87:5-101:2. (*See also* Tables 1-5).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellant requests that the Board review:

I. The Examiner's rejection of Claims 1-6 and 11-15 under 35 U.S.C. § 101 as directed to non-statutory subject matter.

II. The Examiner's rejection of the drawings under 37 C.F.R. §1.83(a).

III. The Examiner's rejection of Claims 1-17 under 35 U.S.C. 103(a) as unpatentable over the combination of U.S. Patent No. 6,654,795 to Coile ("*Coile*"), U.S. Patent No. 6,333,752 to Hasegawa et al. ("*Hasegawa*"), U.S. Patent No. 6,202,070 to Nguyen et al. ("*Nguyen*"), and U.S. Patent No. 6,441,913 to Anabuki et al. ("*Anabuki*").

ARGUMENT

I. Section 101 Rejections: Claims 1-6 and 11-15 are Directed to Statutory Subject Matter.

The Examiner rejects Claims 1-6 and 11-15 under 35 U.S.C. § 101 as directed to non-statutory subject matter, arguing that "Claims 1 and 11 are not limited to tangible embodiments. In view of Appellant's disclosure, the medium is not limited to tangible embodiments nor does the disclosure state what a computer-readable medium could be." *Final Office Action*, p. 2. Claims 1 and 11 are method claims, however, that do not recite or identify a "computer-readable medium."

Claims 1 and 11 are directed to statutory subject matter because each claim produces a useful, concrete, and tangible result. In section 101, Congress deemed that "any new and useful process" constitutes patentable subject matter:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

35 U.S.C. § 101. The Supreme Court and Federal Circuit have interpreted the statute broadly, stating that statutory subject matter should essentially "include anything under the sun that is made by man." *AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1355, 50 U.S.P.Q.2d 1447 (Fed. Cir. 1999) (citing *Diamond v. Chakrabarty*, 447 U.S. 303, 309, 206 U.S.P.Q. 193 (1980)). The courts have, however, specifically identified three categories of subject matter that are not patentable: laws of nature, natural phenomena, and abstract ideas. *Id.* (citing *Diamond v. Diehr*, 450 U.S. 175, 185, 209 U.S.P.Q. 1 (1981)). A mathematical formula or algorithm in the abstract is also considered to be unpatentable subject matter. *Id.* at 1356. But, "[b]ecause § 101 includes processes as a category of patentable subject matter, the judicially-defined proscription against patenting of a 'mathematical algorithm,' to the extent such a proscription still exists, is narrowly limited to mathematical algorithms in the abstract." *Id.*

The Federal Circuit has clarified that a method claim qualifies as patentable subject matter when it "produces a useful, concrete, [and] tangible result." *Id.* at 1358. There is no requirement of a physical transformation, or the like. *Id.*

Appellant submits that Claim 1 produces a useful, concrete, and tangible result and, thus, is directed to statutory subject matter. Claim 1 does not identify a law of nature, natural phenomenon, or abstract idea. Claim 1 is not an abstract mathematical algorithm. It requires "storing a project definition," "displaying a project window that includes a graphical representation of said project definition," "allowing a user to modify said project definition," and "automatically initiating execution of said project definition." Thus, instead of constituting nonstatutory subject matter, Claim 1 produces a useful, concrete, and tangible result. Likewise, independent Claim 11 produces a useful, concrete, and tangible result and is directed to statutory subject matter for substantially similar reasons.

Thus, Appellant respectfully submits that Claims 1 and 11 are directed to statutory subject matter. Because Claims 1 and 11 are directed to statutory subject matter, Appellant respectfully requests the Board to direct the Examiner to withdraw the rejection under 35 U.S.C. § 101.

II. Drawing Objections: The Drawings Show Every Feature of the Claims.

The Examiner objects to the drawings under 37 C.F.R. §1.83(a). In particular, the Examiner contends that the "function portions" are not shown by the drawings. *Final Office Action*, p. 2. Appellant disagrees.

Branch module 26 and action modules 31 and 32 of Figure 1 illustrate one example of "function portions." As discussed in the specification at lines 3-21 of page 15:

> The project definition 14 in FIGURE 1 is a simple example, but has been configured to show at least one example of each of the four types of modules that are recognized in the disclosed embodiments of the present invention. In other words, the disclosed embodiments of the present invention recognize source modules, one example of which appears at 21, branch modules, one example of which appears at 26, action modules, two examples of which appear at 31 and 32, and destination modules, two examples of which appear at 37 and 38. As reflected by the brackets along the bottom of FIGURE 1, branch modules and action modules are sometimes referred to collectively herein as function modules. Source modules deal with the question of where to find the data to be processed, branch modules deal with the question of which data should and should not be processed in a specified manner, action modules deal with the question of what processing should be performed on the data, and destination modules deal with the question of where to put the processed data.

Thus, Appellant submits that the drawings, without correction, show at least one embodiment of "function portions."

Also, the Examiner asserts: "The drawings must show every feature of the invention specified in the claims." *Final Office Action*, p. 2. The implication that the drawings should disclose more than examples runs afoul of settled case law. The specification, including the drawings, need not be a production specification detailing every conceivable embodiment of the claimed invention. *See, e.g., Koito Mfc. Co. v. Turn-Key-Tech LLC*, 381 F.3d 1142, 1155-56, 72 U.S.P.Q.2d 1190 (Fed. Cir. 2004). Rather, providing specific embodiments contemplated by the inventors satisfies the requirements of § 112. *See, e.g., Cordis Corp. v. Medtronic, Inc.*, 339 F.3d 1352, 1365, 67 U.S.P.Q.2d 1876 (Fed. Cir. 2003) (a patentee is not required to describe in the specification every conceivable and possible future embodiment of his invention).

Finally, Appellant respectfully disagrees with the Examiner's statement that the definition of "trigger" is limited to the portion of the specification that was cited by Appellant as describing one embodiment of a trigger. *See Final Office Action*, p. 8. Appellant submits that the claim terms should take their plain, ordinary meaning, given their context, as would be attributed by one of ordinary skill in the art.

Because the drawings show at least one embodiment of all aspects of the claims, Appellant respectfully submits that the drawings comply with all requirements. Appellant respectfully requests the Board to direct the Examiner to withdraw the objections to the drawings.

III. Section 103 Rejections: Claims 1-17 Are Patentable Over the References Because the Combination is Improper and the Combination Fails to Teach or Suggest All Elements of the Claims.

The Examiner rejects Claims 1-17 under 35 U.S.C. 103(a) as unpatentable based on a proposed combination of U.S. Patent No. 6,654,795 to Coile ("*Coile*"), U.S. Patent No. 6,333,752 to Hasegawa et al. ("*Hasegawa*"), U.S. Patent No. 6,202,070 to Nguyen et al. ("*Nguyen*"), and U.S. Patent No. 6,441,913 to Anabuki et al. ("*Anabuki*"). To establish a *prima facie* case of obviousness, there must be a suggestion or motivation in the prior art to modify or combine the references, and the combination of reference must teach or suggest all elements of the rejected claims. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir.

1991). The Examiner's rejection of Claims 1-17 under 35 U.S.C. § 103 fails both of these requirements. First, even if the combination were proper, the proposed *Coile-Hasegawa-Nguyen-Anabuki* combination fails to teach or suggest all elements of the claims. Second, the proposed combination is improper because there is no suggestion or motivation in the cited references or in the prior art to combine *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki*.

A. The proposed *Coile-Hasegawa-Nguyen-Anabuki* combination fails to teach or suggest all elements of the claims.

Consider Appellant's independent Claim 1, which recites:

> A method, comprising the steps of:
> providing a set of predetermined function definitions which are different, at least one of said predetermined function definitions defining a function for manipulating image data;
> storing a project definition that is operable when executed to process said image data and includes: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which said image data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which said image data can be supplied to the data destination; and binding information which includes binding portions that each associate a respective said input port with one of said output ports;
> displaying a project window that includes a graphical representation of said project definition;
> allowing a user to modify said project definition by interacting with said graphical representation using a pointing tool; and
> automatically initiating execution of said project definition in response to a change to said image data in said data source;
> wherein said execution of said project definition operates at least in part to manipulate a graphical aspect of said image data.

Among other aspects, the proposed combination fails to teach or suggest: (1) displaying a project window that includes a graphical representation of the project definition. Also, the proposed combination fails to teach or suggest: (2) automatically initiating execution of said project definition in response to a change to said image data in said data source (as required by Claim 1) and (3) automatically initiating execution of said project definition in response to

receipt through a communications link of a trigger expressed in a public communication protocol (as required by Claim 11).

In general *Coile* provides "a system and method supporting efficient distribution of file access requests across one or more storage device systems." *Coile*, Abstract. The system includes a gateway system, indexing systems, and storage device systems. *Id.* After receiving a file access request, the gateway system forwards the request to a selected indexing system, which determines the locations at which the requested file is stored among the storage device systems. *Id.* The indexing system selects one of these locations and forwards the request to the storage device system corresponding to that location. *Id.* The storage device system responds to the request originator by sending the requested file. *Id.*

Hasegawa generally teaches an image processing apparatus that displays, edits, and processes an image. *Hasegawa*, Abstract; *id.* at col. 1, ll. 8-12. A user may select an image and adjust, for example, brightness/contrast, color balance, RGB correction, and hue/chroma. *See id.* at Figures 5-9. The image processing apparatus permits the user to view the effects of different combinations of parameters on a number of "peripheral" images related to a reference image. *See id*, col. 2, l. 62 – col. 3, l. 8 & Figure 9.

Generally, *Nguyen* "discloses a system of software distribution in computer manufacturing which manages and distributes software from release by a software engineering group to installation at a remote manufacturing site or testing facility." *Nguyen*, Abstract. *Nguyen*'s system, among other aspects, eliminates duplicate distribution of software which took place in previous systems. *Id.* at col. 4, ll. 34-40.

Finally, *Anabuki* generally teaches "an image processing apparatus that receives input image data in the form of separated data, combines those data, and outputs the combined one." *Anabuki*, col. 1, ll. 5-9. The apparatus receives the input image data "in the form of at least three separated data[:] a first piece of image data, a second piece of image data, and selection data to selectively specify the first piece or the second piece of image data." *Id.* at col. 2, ll. 22-27. After subjecting the three pieces to various conversion processes, the apparatus reproduces the original image. *Id.*; *id.* at col. 2, ll. 12-17.

1. The references fail to teach or suggest displaying a project window that includes a graphical representation of said project definition.

Claim 1 requires "displaying a project window that includes a graphical representation of said project definition." The *Coile-Hasegawa-Nguyen-Anabuki* combination fails to teach or suggest these claimed aspects.

As teaching these claimed aspects, the Examiner points to *Hasegawa*, Figures 5-9 and column 33, lines 8-35. *Final Office Action*, p. 5. The cited portion of *Hasegawa* illustrates different graphical interfaces that display versions of an image to permit a user to view the effect of different combinations of parameters on peripheral images related to a reference image. *Hasegawa*, col. 2, l. 62 - col. 3, l. 8 & Figures 5-9. However, *Hasegawa*'s graphical interfaces fail to teach or suggest displaying the claimed project definition.

In response to Appellant's arguments, the Examiner argued:

> Examiner would like to draw the Appellant's attention to the above interpretation of "project definition" which stems from the Appellant's specification. In light of the definition and the prior art of Hasegawa, the project window, which has multiple images, are each modified differently as the result of what the "project definitions" have done the images, (a "project definition" is how data from a file should be processed" or has interpreted how the data from the file was processed). Therefore, the "project definition" can be displayed, because it is how the image files are processed.

Id. at 11-12. However, Appellant respectfully submits that *Hasegawa* fails to teach or suggest displaying a graphical representation of the claimed project definition in part because the project definition includes a plurality of function portions which each define at least one input port and at least one output port.

Hasegawa's display screens (Figures 5-9) show different versions of an image: a reference image and modified images that show the effects of different combinations of parameters on the reference image. *Hasegawa*, col. 2, line 62 – col. 3, line 8 & Figure 9. Thus, even assuming, for the sake of argument, that *Hasegawa* teaches or suggests the claimed project definition, the cited *Hasegawa* display screens would be only graphical representations of the effects of executing the project definition, rather than of the project definition itself.

The Examiner responds:

> As can be seen in Hasegawa the "input ports" could be the different selections of backgrounds or different types of manipulations that can occur in the system as seen, for example, Figure 12, Item 1201-1203. The "output ports" could be, as broadly intpereted by the Examiner, the end results that are also shown in Firgure 12, i.e., the multiple backgrounds that could be used to manipulate the picture. This is all happening by the "project definition" or as stated by Hasegawa the "HUE/CHROMA" window.

Advisory Action, p. 2 [sic]. However, Claim 1 requires "a project definition . . . [to] include[]: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition." Even assuming, for the sake of argument, that the Examiner's assertion is correct, *Hasegawa*'s display screens still fail to teach or suggest displaying a project definition including a plurality of function portions which each define at least one input port and at least one output port. In fact, the cited portions of *Hasegawa* fail to teach or suggest the claimed project definition itself, much less displaying this claimed project definition.

Finally, the Examiner asserts that "[t]aking an action such as saving or manipulating an image is not novel and is commonly done in the art whether it is an image, text or any data." *Final Office Action*, pg. 11. To the extent this statement constitutes Official Notice, Appellant traverses. The Examiner raises this assertion for the first time in the *Final Office Action*, without providing any objective evidence for support.

Anabuki fails to remedy the deficiencies of *Hasegawa*. Moreover, neither *Coile* nor *Nguyen* deal with the processing of image data. Thus, none of these references teach or suggest the displayed project window that includes a graphical representation of the claimed project definition.

Thus, *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki*, whether taken alone or in combination, fail to teach or suggest every element of Claim 1. Likewise, independent Claims 7, 11, and 16 include limitations that, for substantially similar reasons, are not taught or suggested by the references. Because *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki*, whether taken alone or in combination, fail to teach or suggest every element of independent Claims 1, 7, 11, and 16, Appellant respectfully requests the Board to reverse the Examiner's rejection of Claims 1-17 and direct the Examiner to issue a notice of allowance.

2. The references fail to teach or suggest automatically initiating execution of the project definition in response to a change to the image data in the data source, as required by Claims 1-10.

Claim 1 also requires "automatically initiating execution of said project definition in response to a change to said image data in said data source." The *Coile-Hasegawa-Nguyen-Anabuki* combination fails to teach or suggest these claimed aspects.

As teaching these claimed aspects, the Examiner points to a discussion in *Nguyen* of automatic database triggers. *Final Office Action*, p. 5. The cited portion of *Nguyen* discusses generic database triggers, such as an automatic notification letter sent upon the change of an address. *Nguyen*, col. 4, ll. 5-13. Generic database triggers, however, fail to teach or suggest the specific operation set forth in the claim, which requires "automatically initiating execution of said project definition in response to a change to said image data in said data source."

In response, the Examiner states:

> [These claimed aspects do] not have what the "change" could or would be. All that is stated is that there is a "change" which could be change in location, image type, (gif to jpeg), size, color or any attribute. Now since the main definition of a "project definition" is how data from a file should be processed, could make one interpret once an attribute is desired to change, i.e., changing from gif to a jpeg, once it is selected and a Save button is executed that would active the "project definition" save the data as a new type. [sic]

Id. at 11. However, even assuming, for the sake of argument, that these statements are accurate, the combination still fails to teach or suggest the claimed aspects because Claim 1 requires, in response to a change to said image data in said data source, automatically initiating execution of the project definition. *Nguyen*'s generic database triggers fail to teach or suggest these claimed aspects.

The Examiner later states that "because the claim language is silent on what constitutes a 'change' or what type of execution [] said 'project definition' could be doing[,] the prior art in combination teaches the claim language." *Final Office Action*, p. 14. However, Appellant submits that these claimed aspects require a particular type of operation that works in conjunction with other elements of the claim. Claim 1 requires "a change to said image data in said data source" and a project definition including "a plurality of function portions . . . which each define at least one input port and at least one output port." The proposed combination fails to teach or suggest these claimed aspects.

Moreover, *Nguyen* teaches away from the combination. The cited portion of *Nguyen* discusses deficiencies of the prior art: "While convenient, [database triggers] can also increase the overhead consumed by a DBMS." *Nguyen*, col. 4, lines 12-13. *Nguyen* continues by stating that the invention of *Nguyen* seeks to overcome this and other deficiencies. *Id.*, col. 4, lines 26-33. When one reference identifies operations that are undesirable, one of skill in the art would not be motivated to combine, and in fact would be discouraged from combining, those teachings with other references. Rather, when one reference discourages particular operations, as *Nguyen* does here, that reference teaches away from a combination. *See, e.g., In re Gurley*, 27 F.3d 551, 553, 31 U.S.P.Q.2d 1130 (Fed. Cir. 1994). Thus, Appellant respectfully submits that the combination is improper and fails to teach or suggest all elements of the claims.

Finally, in the *Advisory Action*, the Examiner responds to Appellant's arguments by suddenly relying on *Hasegawa*, column 18, line 7 *et seq.* to teach or suggest these claimed aspects. *Advisory Action*, p. 2. The Examiner states:

> [O]ne can see that when one parameter or project definition is change [sic] another project definition is automatically initiating execution in its response. Furthermore, when a user creates the desired effect on the controls and the user confirms this desired effect for the image, it is automatically initiated on the image, and the desired parameters or project definitions are used to change the original image data.

Id. However, the cited portion of *Hasegawa* merely states:

> The parameter setting section 1101 may permit, in the same case as described above, setting of a parameter concerning hue in the horizontal-axis parameter setting frame 1201 in place of sending the notice to that effect to the operator and/or in place of reporting it, and in turn automatically set other selectable parameter in place of the parameter concerning hue already set in the vertical-axis parameter setting frame 1202, in this case, a parameter concerning chroma or brightness in place of hue in the frame 1202.

Hasegawa, col. 18, ll. 7-16. Thus, *Hasegawa* fails to teach or suggest "automatically initiating execution of said project definition in response to a change to said image data in said data source," as required by Claim 1.

Thus, *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki*, whether taken alone or in combination, fail to teach or suggest every element of Claim 1. Likewise, independent Claim 7 includes limitations that, for substantially similar reasons, are not taught or suggested by the references. Because *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki*, whether taken alone or in

combination, fail to teach or suggest every element of independent Claims 1 and 7, Appellant respectfully requests the Board to reverse the Examiner's rejection of Claims 1-10 and direct the Examiner to issue a notice of allowance.

3. The references fail to teach or suggest automatically initiating execution of said project definition in response to receipt through a communications link of a trigger expressed in a public communication protocol, as required by Claims 11-17.

In addition to certain claimed aspects similar to those required by Claim 1, Claim 11 requires "automatically initiating execution of said project definition in response to receipt through a communications link of a trigger expressed in a public communication protocol."[1] The proposed *Coile-Hasegawa-Nguyen-Anabuki* combination fails to teach or suggest these claimed aspects.

The Examiner fails to indicate where the references allegedly teach these claimed aspects. *See Final Office Action*, p. 8 ("Claims 7-17 are rejected for similar reasons as stated above."). In fact, the *Final Office Action* fails to ever mention these claimed aspects. Additionally, Appellant respectfully submits that *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki*, whether taken alone or in combination, fail to teach or suggest these claimed aspects.

Thus, *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki*, whether taken alone or in combination, fail to teach or suggest every element of Claim 11. Likewise, independent Claim 16 includes limitations that, for substantially similar reasons, are not taught or suggested by the references. Because *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki*, whether taken alone or in combination, fail to teach or suggest every element of independent Claims 11 and 16, Appellant respectfully requests the Board to reverse the Examiner's rejection of Claims 11-17 and direct the Examiner to issue a notice of allowance.

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[1] In previous responses, Appellant referred to Claims 11-17 after discussing "automatically initiating execution of said project definition in response to a change to said image data in said data source," which is not found in those claims. Accordingly, Appellant clarifies that Appellant's arguments presented with respect to these claimed aspects shall not affect in any way the scope of Claims 11-17 as these claims do not include those claimed aspects, but rather include different claimed aspects.

B. There is no suggestion or motivation in the cited references or in the prior art to combine *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki*.

The proposed combination of *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki* is improper because the prior art fails to suggest or motivate the proposed combinations of the references. The factual inquiry whether to combine references must be thorough and searching. *McGinley v. Franklin Sports, Inc.*, 262 F.3d 1339, 1351-52, 60 U.S.P.Q.2d 1001 (Fed. Cir. 2001). This factual question cannot be resolved on subjective belief and unknown authority, but must be based on objective evidence of record. *See In re Lee*, 277 F.3d 1338, 1343-44, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002).

Nothing in *Coile*, *Hasegawa*, *Nguyen*, or *Anabuki* suggests or motivates the proposed combination. *Coile* provides "a system and method supporting efficient distribution of file access requests across one or more storage device systems." *Coile*, Abstract. *Hasegawa* provides an image processing apparatus that permits a user to view the effect of different combinations of parameters on a number of "peripheral" images related to a reference image. *See Hasegawa*, Col. 2, line 62 – Col. 3, line 8; Figure 9. *Nguyen* "discloses a system of software distribution in computer manufacturing which manages and distributes software from release by a software engineering group to installation at a remote manufacturing site or testing facility." *Nguyen*, Abstract. *Anabuki* provides "an image processing apparatus that receives input image data in the form of separated data, combines those data, and outputs the combined one." *Anabuki*, Col. 1, lines 5-9.

These disparate fields of endeavor highlight the dramatic differences between the teachings of each reference. The U.S. classifications and fields of search emphasize these differences. None of the four references have common U.S. classifications with each other. *Coile* is classified in 709: "ELECTRICAL COMPUTERS AND DIGITAL PROCESSING SYSTEMS: MULTICOMPUTER DATA TRANSFERRING;" *Hasegawa* in 345: "COMPUTER GRAPHICS PROCESSING AND SELECTIVE VISUAL DISPLAY SYSTEMS;" *Nguyen* in 707: "DATA PROCESSING: DATABASE AND FILE MANAGEMENT OR DATA STRUCTURES;" and *Anabuki* in 358: "FACSIMILE AND STATIC PRESENTATION PROCESSING."

Further, while *Coile* and *Nguyen* have minor overlap with respect to the indicated fields of search, neither *Hasegawa* nor *Anabuki* shares any overlapping fields of search with

either *Coile*, *Nguyen*, or the other. In fact, the references for *Hasegawa's* fields of search are contained in a completely different search room at the Patent Office than for *Coile*, *Nguyen*, or *Anabuki*. Thus someone searching for references related to *Hasegawa* would be hard pressed to come across *Coile*, *Nguyen*, or *Anabuki*, and even more hard pressed to find a motivation to combine the references.

Appellant respectfully submits that the Examiner fails to demonstrate a sufficient suggestion or motivation to combine the references. For example, with regard to Claim 1, the Examiner states:

> It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Hasegawa with Coile because it would allow the user to easily check the characteristics of each image, and quickly grasp situations such as separated shape and size of the image on the contracted image, therefore the user can efficiently retrieve and manipulate any image. [sic]

Final Office Action, p. 5. Then, the Examiner states:

> It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Anabuki with the combine system of Coile, Hasegawa and Nguyen because utilizing an input and output portion allows the device to obtain image data form outside devices such as a communication network or facsimile machine, manipulate image data to the clients specification and output the newly manipulated image data to another device on the communication network such as a external storage device. [sic]

Id. at 6.

Appellant respectfully submits that this statement does not provide the required evidence of a teaching, suggestion, or motivation to combine or modify the references. This statement represents the subjective belief of the Examiner, does not point to any known authority, and therefore is not based on objective evidence of record. Thus, the Examiner in the *Final Office Action* has not provided any evidence of a teaching, suggestion, or motivation to combine or modify the reference, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

Finally, the combination is improper because *Nguyen* teaches away from the combination. It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 U.S.P.Q. 769, 779 (Fed. Cir. 1983). As noted above, the cited portion of *Nguyen* discusses deficiencies of the prior art:

"While convenient, [database triggers] can also increase the overhead consumed by a DBMS." *Nguyen*, col. 4, ll. 12-13. *Nguyen* continues by stating that the invention of *Nguyen* seeks to overcome this and other deficiencies. *Id.*, col. 4, ll. 26-33. When one reference identifies operations that are undesirable, one of skill in the art would not be motivated to combine, and in fact would be discouraged from combining, those teachings with other references. Rather, when one reference discourages particular operations, as *Nguyen* does here, that reference teaches away from a combination. *See, e.g., In re Gurley*, 27 F.3d 551, 553, 31 U.S.P.Q.2d 1130 (Fed. Cir. 1994). Thus, Appellant respectfully submits that the combination is improper and fails to teach or suggest all elements of the claims.

For these reasons the *Final Office Action* fails to present a *prima facie* case of obviousness. Thus, the proposed combination of *Coile*, *Hasegawa*, *Nguyen*, and *Anabuki* is improper. For at least this reason, Appellants respectfully submits that Claims 1-17 are allowable over the cited references and requests the Board to reverse the Examiner's rejection of Claims 1-6 and to direct the Examiner to issue a notice of allowance.

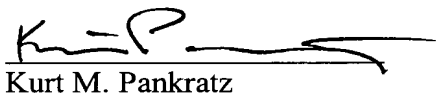
CONCLUSION

Appellant has demonstrated that the present invention, as claimed in Claims 1-17, is patentably distinct from the cited art, that the drawings are proper, and that Claims 1-6 and 11-15 are directed to statutory subject matter. Accordingly, Appellant respectfully requests that the Board reverse the final rejection and instruct the Examiner to issue a Notice of Allowance of Claims 1-17.

The Commissioner is hereby authorized to charge $500.00 for the filing fee to Deposit Account No. 02-0384 of Baker Botts L.L.P. The Commissioner is hereby authorized to charge any extra fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS, L.L.P.
Attorneys for Appellant



Kurt M. Pankratz
Registration No. 46,977
(214) 953-6584

Date: October 17, 2006

Customer No. **05073**

Appendix A: Claims Involved In Appeal

1. (Previously Presented) A method, comprising the steps of:

providing a set of predetermined function definitions which are different, at least one of said predetermined function definitions defining a function for manipulating image data;

storing a project definition that is operable when executed to process said image data and includes: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which said image data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which said image data can be supplied to the data destination; and binding information which includes binding portions that each associate a respective said input port with one of said output ports;

displaying a project window that includes a graphical representation of said project definition;

allowing a user to modify said project definition by interacting with said graphical representation using a pointing tool; and

automatically initiating execution of said project definition in response to a change to said image data in said data source;

wherein said execution of said project definition operates at least in part to manipulate a graphical aspect of said image data.

2. (Previously Presented) A method according to Claim 1, including the steps of:

causing said data source to automatically generate a trigger in response to a change to said image data therein;

causing said data source to automatically transmit said trigger through a communications link; and

responding to receipt of said trigger through said communications link by effecting said initiating of execution of said project definition.

3. (Original) A method according to Claim 2, including the step of expressing said trigger in a public communication protocol.

4. (Original) A method according to Claim 3, including the step selecting as said public communication protocol the eXtensible Markup Language (XML) protocol.

5. (Original) A method according to Claim 2, including the step of configuring said communications link to include a network.

6. (Original) A method according to Claim 5, including the step of configuring said network to include a portion of the Internet.

7. (Previously Presented) A computer readable medium encoded with a computer program which recognizes a set of predetermined function definitions that are different, at least one of said predetermined function definitions defining a function for manipulating image data, said program being operable when executed to facilitate:

storing of a project definition that is operable when executed to process said image data and includes: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which said image data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which said image data can be supplied to the data destination; and binding information which includes binding portions that each associate a respective said input port with one of said output ports;

displaying of a project window that includes a graphical representation of said project definition;

allowance of a user to modify said project definition by interacting with said graphical representation using a pointing tool; and

automatic initiation of execution of said project definition in response to a change to said image data in said data source;

wherein said execution of said project definition operates at least in part to manipulate a graphical aspect of said image data.

8. (Previously Presented) A computer readable medium according to Claim 7, wherein said program is operable when executed to effect said automatic initiation of execution in response to receipt through a communications link of a trigger automatically generated and transmitted by said data source in response to a change to said image data therein.

9. (Original) A computer readable medium according to Claim 8, wherein said trigger is expressed in a public communication protocol, and wherein said program is operable when executed to accept said trigger in said public communication protocol.

10. (Original) A computer-readable medium according to Claim 9, wherein the public communication protocol in which said trigger is expressed is the eXtensible Markup Language (XML) protocol, and wherein said program is operable when executed to accept said trigger in said eXtensible Markup Language protocol.

11. (Previously Presented) A method, comprising the steps of:

providing a set of predetermined function definitions which are different, at least one of said predetermined function definitions defining a function for manipulating image data;

storing a project definition that is operable when executed to process said image data and includes: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which said image data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which said image data can be supplied to the data destination; and binding information which includes binding portions that each associate a respective said input port with one of said output ports;

displaying a project window that includes a graphical representation of said project definition;

allowing a user to modify said project definition by interacting with said graphical representation using a pointing tool; and

automatically initiating execution of said project definition in response to receipt through a communications link of a trigger expressed in a public communication protocol;

wherein said execution of said project definition operates at least in part to manipulate a graphical aspect of said image data.

12. (Original) A method according to Claim 11, including the step of selecting as said public communication protocol the eXtensible Markup Language (XML) protocol.

13. (Original) A method according to Claim 11, including the step of configuring said communications link to include a network.

14. (Original) A method according to Claim 13, including the step of configuring said network to include a portion of the Internet.

15. (Original) A method according to Claim 13, including the step of causing a network browser program to respond to a manual input event by effecting the transmission of said trigger through said communications link.

16. (Previously Presented) A computer-readable medium encoded with a computer program which recognizes a set of predetermined function definitions that are different, at least one of said predetermined function definitions defining a function for manipulating image data, said program being operable when executed to facilitate:

storing of a project definition that is operable when executed to process said image data and includes: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which said image data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which said image data can be supplied to the data destination; and binding information which includes binding portions that each associate a respective said input port with one of said output ports;

displaying of a project window that includes a graphical representation of said project definition;

allowance of a user to modify said project definition by interacting with said graphical representation using a pointing tool; and

automatic initiation of execution of said project definition in response to receipt through a communications link of a trigger expressed in a public communication protocol;

wherein said execution of said project definition operates at least in part to manipulate a graphical aspect of said image data.

17. (Original) A computer readable medium according to Claim 16, wherein the said public communication protocol in which the trigger is expressed is the eXtensible Markup Language (XML) protocol, and wherein said program is operable when executed to accept said trigger in said eXtensible Markup Language protocol.

Appendix B: Evidence

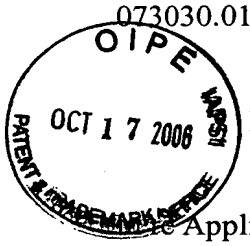
NONE

Appendix C: Related Proceedings

NONE

ATTORNEY DOCKET NO.
073030.0136

PATENT APPLICATION
09/658,238



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	ZURAWSKI
Serial No.:	09/658,238
Filed:	September 8, 2000
Group No.:	2143
Confirmation No.	3002
Examiner:	David E. England
Title:	METHOD AND APPARATUS FOR TRIGGERING AUTOMATED PROCESSING OF DATA

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